REMARKS

There remains pending in this application claims 1-8 and 11-21, of which claims 1, 20 and 21 are independent. No claims have been added or cancelled.

In view of the above amendments and the following remarks, favorable reconsideration and allowance of the above application is respectfully sought.

In the outstanding Official Action, claims 1-8 and 11-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fukimoto et al. The rejection is respectfully traversed.

In the aforementioned rejection, the Examiner acknowledged that Fukimoto et al. was silent with respect to the initializing operation recited in the claims. However, the Examiner characterized that initializing operation as merely a statement of intended use of the operating cam. Applicants respectfully disagree. the initializing operation is an integral part of the control means and thus a structural element of each of the independent claims. It is the hardware and software which together form that control means. As such, it is not simply a statement of intended use.

Moreover, the Examiner also argues that "writing computer programs is a routine skill in the art". However, there is absolutely no basis for that assertion. More specifically, while the control mechanism of Applicants' invention may incorporate software, the Examiner has presented no evidence to suggest that the particular software required for the initializing operation would have been obvious or routine skill to a person of ordinary skill in the art. It is incumbent upon the Examiner to present a prior art reference to establish that alleged level of skill, and Applicants submit that none exists.

In order to expedite prosecution, Applicants have further amended the independent claims of the above application to more clearly recite additional structure and make absolutely clear that the initializing operation is not a statement of intended use. The additional claim language is supported at least at page 28, line 16 et. seq.

In accordance with Applicants' invention as recited in each of the pending claims of the above application, the initializing operation is performed, for example, after the maintenance of jam processing or power activation. When the initializing operation is performed, the apparatus does not know where the operating member is positioned within its movable area. As such, it is necessary to move the operating member to the predetermined rest position before performing a punching operation.

The invention is characterized in that the operating member is moved to one of two rest positions depending upon which is the farthest from its existing position. By moving the operating member to the rest position that is farthest from the operating member, the moving speed of the operating member becomes almost constant at a time when stopping of the operating member is performed. Therefore, deviation between the actual rest position and the desired rest position can be reduced. This feature is explained in the specification at least at page 32, line 15 through page 33, line 16.

These features are neither taught nor suggested by the applied reference. Moreover, in the Official Action the Examiner identifies reference numerals 55, 56, 92 and 93 as corresponding to the detecting means of the present invention. However, members 92 and 93 merely detect the positions of the punches (see, col. 6, lines 26-27 and lines 65-66) and therefore do not correspond to the detection means of the present invention. Detection unit 55 detects that

the cam plate 35 has moved to the right hand side (see, col. 7, lines 32-35) and detection unit 56 detects that the cam plate 35 has moved to the left hand side (see, col. 8, lines 28-31). In contrast, the detection means of the present invention does not detect that the operating member has moved to the right side and/or the left side end. The detection means of the present invention detects which of the first and second rest positions the operating member is nearest to, and does this detection without regard to the position of the operating member within its movable area. Thus for this additional reason, the detection means is clearly different from the means of the detectors 55, 56 disclosed in Fukimoto et al.

For the foregoing reasons, Applicants respectfully submit that each of the independent claims of the above application are patentable over the applied art of record. The remaining claims in the above application are dependent claims which depend either directly or indirectly from one of the above-discus sed independent claims and are therefore patentable over the art of record for reasons noted above with respect to the independent claims. In addition, each recite features of the invention still further distinguishing it from the applied art. Favorable and independent consideration thereof is respectfully sought.

Applicants respectfully submit that all outstanding matters in the above application have been addressed and that this application is in condition for allowance. Favorable reconsideration and early passage to issue of the above application are respectfully sought.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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